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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,620	04/02/2004	Kia Silverbrook	HYG010US	9817
24011	7590	06/07/2005	EXAMINER	
SILVERBROOK RESEARCH PTY LTD 393 DARLING STREET BALMAIN, 2041 AUSTRALIA			FRANKLIN, JAMARA ALZAIDA	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/815,620

Applicant(s)

SILVERBROOK ET AL.

Examiner

Jamara A. Franklin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/01/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 6 and 15 are objected to because of the following informalities:

in claim 6, line 4, substitute "it" with --the scanning patch--; and

in claim 15, line 9, substitute "a" with --an--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierenkemper et al. (US 6,641,042) (hereinafter referred to as 'Pierenkemper') in view of Dymetman et al. (US 6,330,976) (hereinafter referred to 'Dymetman').

Pierenkemper teaches a sensing device for sensing a product in a sensing region, wherein the product item includes an interface surface having disposed thereon at least one of:

coded data (data of transponders 2, 4 or data of barcodes 1, 3); and,

a bar code (bar code 1, 3) which encodes an identifier or an RFID tag (transponder 1,3) which encodes an identifier;

the sensing device including:

a coded data sensor (RFID reading device 23 or bar code reader 16, 17) for sensing at least one coded data portion;

a barcode sensor (bar code reader 16, 17) sensing the barcode or an RFID tag reader for reading RFID tags (RFID reading device 23);

a processor for generating identity data indicative of the identity of the product item using at least one of:

the at least one sensed coded data portion; and,

the entire barcode or the RFID reader;

the sensing device wherein the coded data sensor and bar code sensor utilize a sensor adapted to sense a spot of radiation, and wherein in use, the sensing device is moved relative to the product item to thereby sense the bar code (col. 5, lines 55-58);

the sensing device wherein the sensing device includes a radiation source (scanning beam 18, 19) for exposing each of the coded data and the bar code to radiation;

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the sensing device wherein the sensing device includes a respective radiation source for exposing each of the coded data and the bar code;

the sensing device wherein the sensing device includes a laser for emitting at least one scanning beam, the scanning beam being directed in first and second orthogonal directions to thereby generate a raster scan pattern over a scanning patch, the scanning patch being provided in the sensing region such that the scanning patch exposes at least one of coded data portion and the bar code (see figure 1);

the sensing device wherein the sensing device includes at least one beam controller for directing the at least one scanning beam along selected ones of a number of patch beam paths, each patch beam path extending into the sensing region at a respective angle;

the sensing device wherein the scanning device includes an amplitude modulator for modulating the amplitude of the scanning beam;

the sensing device wherein the scanning device:

determines from the radiation sensed by the coded data sensor, using the modulation of the scanning beam, ambient light incident on the coded data sensor;

determines from radiation sensed by the coded data sensor, using the determined ambient light incident on the coded data sensor, the radiation reflected from the interface surface; and

senses the coded data from the radiation reflected from the interface surface;

the sensing device wherein the scanning device includes a focusing element;

the sensing device wherein the sensing device:

senses at least one coded data portion; and,

generates the indicating data using the senses coded data portion, the indicating data being indicative of at least one of:

- a position of the sensed coded data;
- a position of the sensing device relative to the interface surface;
- an orientation of the sensed coded data;
- an orientation of the sensing device relative to the interface surface; and,
- movement of the sensing device relative to the coded data portions.

Pierenkemper lacks the teaching of coded data which includes a plurality of coded data portions, each coded data portion being indicative of an identity of the product item.

Dymetman teaches a coded data which includes, at a plurality of locations on an interface surface, a corresponding plurality of coded data portions, each coded data portion being indicative of an identity of the product item (col. 12, lines 30-56).

One of ordinary skill in the art would have readily recognized that the coded data which includes a plurality of coded data portions, each coded data portion being indicative of an identity of the product item, would have been beneficial for providing an alternative to the variety of manners by which identifying data may be hidden on the surface of an object. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Pierenkemper with the aforementioned teaching of Dymetman.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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McAllister (US 6,415,978) teaches a multiple technology data reader for bar code labels and RFID tags.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389.

The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
May 31, 2005



**KARL D. FRECH**  
PRIMARY EXAMINER